

Members

Sen. Luke Kenley, Chairperson
Sen. Thomas Wyss
Sen. Lindel Hume
Rep. Lawrence Buell
Rep. William Crawford



COMMISSION ON STATE TAX AND FINANCING POLICY

LSA Staff:

Michael Landwer, Attorney for the Commission
James Landers, Fiscal Analyst for the Commission
Diane Powers, Fiscal Analyst for the Commission
Chuck Mayfield, Fiscal Analyst for the Commission

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*Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554*

MEETING MINUTES¹

Meeting Date: October 13, 2005
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. Luke Kenley, Chairperson; Sen. Lindel Hume; Rep. Lawrence Buell.

Members Absent: Sen. Thomas Wyss; Rep. William Crawford.

Senator Kenley, chairperson, called the meeting to order at 10:05 a.m. Senator Kenley reviewed the minutes for the September 22, 2005, meeting. He then discussed the fiscal issues facing local governments. Senator Kenley invited thoughts on these issues from all units and their various associations.

Senator Kenley reviewed the property tax assessment data collection issues and emphasized the importance of good information to perform ratio studies, school equalization, and economic development analysis.

Senator Kenley distributed the draft report on House Resolution 85-2005 concerning state and federal mandates on public schools (Exhibit 1). This report will be submitted to the Legislative Council as a status report.

Senator Kenley introduced **John Eckert**, Commissioner of the Indiana Department of State Revenue (DOR). Senator Hume asked the Commissioner to discuss the state's tax

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

amnesty program and mentioned constituents who had received notices even though they did not owe any taxes. He added that some were advised to pay anyway and file for a refund. He wondered if there was enough communication between the amnesty contractors and the DOR. Mr. Eckert noted that the amnesty contractors did not have direct access to the tax data. He also asked Senator Hume to provide him with the names of these taxpayers. He added that there are 280,000 taxpayers owing \$1.3 billion, and the goal was to notify all of them even though some of the accounts are decades old. Senator Hume added that he was uncomfortable about whether the database was accurate enough to be contacting everyone. Mr. Eckert said that the Department is using the best data available. Mr. Eckert also asked for legislative authority to write off old unverifiable and uncollectible liabilities.

Senator Kenley then introduced the topic of business taxation. He noted that revenue from the Corporate Adjusted Gross Income (AGI) Tax had been down for a few years, but was up again this year. Senator Kenley introduced **Jim Landers** from the Legislative Services Agency (LSA). Mr. Landers reviewed a memo dated October 5, 2005 (Exhibit 2), providing an estimate of the revenue loss that could result if the Corporate AGI Tax rate is reduced from 8.5% to 3.4%. Mr. Landers estimated the revenue loss at about \$334 million in FY 2007, plus \$21-22 million additional annual loss relating to the riverboat wagering tax add-back.

Mr. Landers highlighted portions of the memorandum that updated information in the 2004 Corporate Fiscal Issues Briefs (Exhibits 3, 4, 5) and Final Report (Exhibit 6) prepared for the Interim Study Committee on Corporate Taxation. This included updates of data in the briefs relating to annual corporate tax payments, annual tax filing comparisons of C-Corporations and pass through entities, and utilization of corporate tax credits and deductions. Mr. Landers also highlighted portions of the fiscal issue briefs relating to the distribution of corporate tax filers by tax liability and business income being taxed under the Individual AGI Tax.

Senator Kenley then asked the DOR to work with LSA on data collection and analysis.

Senator Kenley mentioned the other materials that had been sent to the Commission members concerning corporate taxation (Exhibits 7 & 8). **Michael Landwer** from LSA reviewed these documents, which covered corporate income tax rates, apportionment formulas, multi-state allocation or apportionment formulas, consolidated returns, combined reporting requirements, and alternative minimum taxes throughout the country. In addition, members received various articles covering state taxation of businesses.

Senator Kenley requested input on the business tax issue and emphasized the need for ideas on a tax structure that promotes business development but taxes fairly. Senator Kenley introduced **Mark Cahoon**, Indiana Manufacturers Association. Mr. Cahoon provided the Commission with a handout (Exhibit 9). Mr. Cahoon reviewed a comparison between Indiana and surrounding states, noting that there was a downward trend in the proportion of taxes collected from corporations. He also noted that Indiana has the highest proportion of taxes compared to total state tax collections. Mr. Cahoon added that Indiana has the highest proportion of manufacturing compared to total gross state product.

Senator Hume stated that while Indiana may have the highest percentage of manufacturing, it does not have the highest actual manufacturing totals. Mr. Cahoon responded that Illinois has three times the total gross state product of Indiana. Mr. Cahoon finished his presentation and responded to questions from the Commission.

Senator Kenley introduced **William Waltz**, Indiana Chamber of Commerce, who reviewed corporate taxation throughout the country, noting that only nine states have a higher corporate income tax rate than Indiana (Exhibit 10). He added that a single-factor sales

apportionment formula is used in Ohio, Illinois, and, effectively, in Michigan as well under its value added tax. Mr. Waltz informed the Commission that only seven states have an alternative minimum tax. He emphasized that Indiana was the only Midwest state that did not conform to the new federal "qualified production activities income deduction" enacted in the American Jobs Creation Act of 2004 (Section 199 of the Internal Revenue Code). Mr. Waltz completed his discussion by pointing out to the members that it is very easy to overreach when crafting language to eliminate tax avoidance.

Senator Kenley reviewed the various issues involved in business taxation, including the single-factor sales approach, nowhere income, the throw back rule, and how they interrelate. Senator Hume wondered if there was a fiscal impact on going to a single-factor sales apportionment formula. Mr. Waltz said that a new sample needs to be taken, and a group is working on this issue.

Senator Kenley introduced **Stan Pinegar**, Indiana Energy Association, to begin the discussion of the Utilities Services User Tax (Exhibit 11). Mr. Pinegar reviewed the history of the Utility Receipts Tax and how it was part of the restructuring legislation from 2002. He added that utilities paid \$170 million dollars under the Utility Receipts Tax in FY 2005, but that the savings in property taxes appeared to be far less. He discussed industrial purchasing of energy and the various economic factors related to energy prices. He asked the Commission for its support for the Utilities Services User Tax to remove the advantage of non-Indiana domiciled utilities.

Senator Kenley recognized **Jewels Debonis** representing Indiana Industrial Energy Consumers. Mr. Debonis provided the Commission with a handout from the Indianapolis Star on natural gas prices (Exhibit 12). Senator Kenley recognized **Gui Aus** of Mittal Steel USA. He indicated that Mittal Steel is a merger of steel companies that were losing money. He informed the Commission that U.S. Steel mills are more efficient than foreign steel mills, but that the raw material price is significantly different. He pointed out that ore is \$5 a ton in Romania and \$83 a ton in the United States. He added that Mittal Steel is the largest natural gas buyer in North America and that the recent increases in the price of natural gas will cost Mittal Steel \$600 M. He added that Mittal Steel has 10,500 employees and billions of dollars in Indiana assets. It is opposed to the Utilities Services User Tax because it would increase its costs in a very competitive market. Senator Kenley asked whether Mittal Steel buys natural gas from in-state providers such as Shell and Proliance. Mr. Aus said he resisted the pass through of the Utility Receipts Tax. Senator Kenley then asked whether Mittal Steel buys natural gas from out-of-state providers because of Indiana's Utilities Receipt Tax. Mr. Aus answered that Mittal Steel shops for the best price. Senator Kenley asked whether the tax is a deciding factor. Mr. Aus said that the market determines the price.

Senator Kenley recognized **Tom Morton** of Proliance Energy. Mr. Morton indicated that Proliance employs 100 individuals and is headquartered in Indianapolis. He added that the issue is whether the out-of-state utilities should have to include the same tax as in-state utilities. He emphasized that out-of-state sellers use the "tax free" status as a marketing tool. Mr. Morton reviewed the tax proposal from 2005 and indicated that possibly certain industries or buyers should be exempt from the tax, such as government, higher education, and perhaps industries such as steel and plastic. Mr. Morton added that revenue from the Utilities Receipts Tax has tripled since its inception.

Exhibit 13 was distributed to Commission members at the end of testimony.

Senator Kenley informed the other members of the Commission that the Florida tax issue would be moved to the November 17, 2005, meeting.

Senator Kenley asked for and received a motion, a second, and approval of the status report (Exhibit 1) to the Legislative Council on House Resolution 85-2005 concerning state and federal mandates on public schools.

Senator Kenley announced that the next Commission meeting would be held on Thursday, November 17, 2005, at 10:00 a.m. in Room 431.

The meeting was adjourned at 12:00 p.m.